



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: July 12, 2011

SUBJECT: BZA Application 18234, Alley Lot, 1300 Block D Street, SE (rear)

I. SUMMARY RECOMMENDATION

The applicant is requesting approval of a use variance, pursuant to 11 DCMR § 3103.2 and § 2507.2 to allow the construction of a three-story, single-family detached residence which fronts on a 30-foot wide alley but connects to the street, D and E Streets, SE, via a 16-foot wide alley. The Office of Planning (OP) **cannot recommend approval of the requested use variance.**

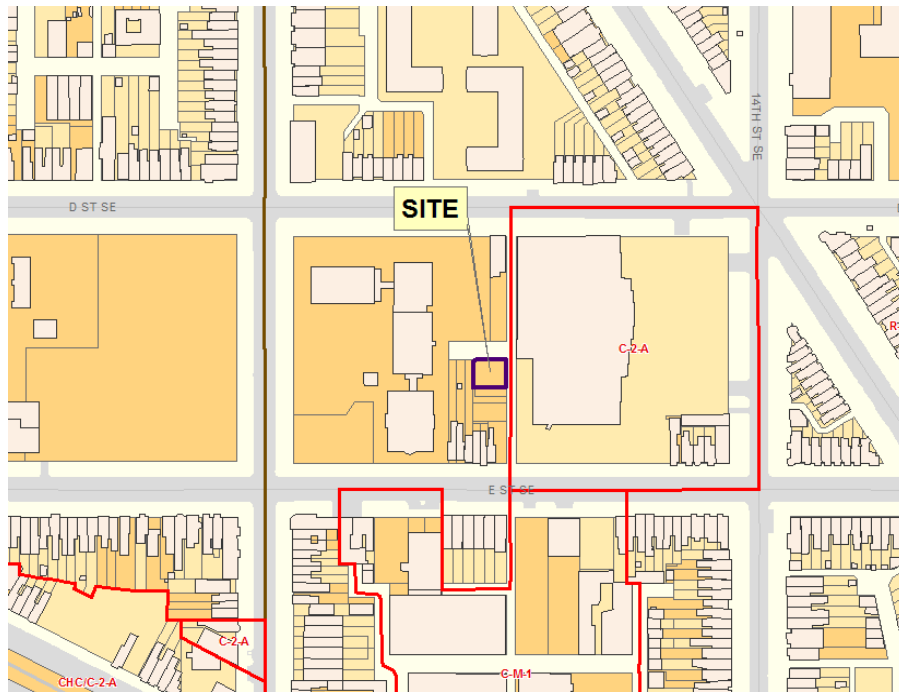
The Zoning Regulations set a high standard for residential use, particularly for a building on an alley lot with connections to the street that are less than thirty feet wide. Typically, the Regulations do not support such new single-family dwellings on an alley. In this case, the applicant has demonstrated that at least a degree of the proposed use would not be substantially harmful to the neighborhood. However, OP cannot recommend approval because the applicant has neither demonstrated that the cited unique conditions and resulting undue hardship are proportional to the requested relief for a single family dwelling; nor shown that the requested relief would not pose substantial harm to the current zone plan.

II. AREA AND SITE DESCRIPTION

Address:	Alley Lot , 1300 Block D Street, SE (rear)
Legal Description:	Square 1042, Lot 810
Ward:	Ward 6, ANC-6B
Zoning:	R-4
Lot Characteristics:	The property is an undeveloped, rectangular alley lot with an area of 2,448 square feet that abuts a 30-foot wide, east-west alley to the north and a 16-foot wide north-south alley to the east.
Existing Development:	The lot is currently undeveloped.
Adjacent Properties:	To the north and west is a 3-story houses and the International Graduate University; to the south are four vacant alley lots and rowhouses all in the R-4 zone. To the east is a Safeway supermarket in the C-2-A zone.
Surrounding Neighborhood:	The surrounding neighborhood is developed with a mixture of 2- and 3-story rowhouses, garden apartments and various commercial and institutional uses.
Historic District:	Not within a historic district.



III. MAPS



IV. PROPOSAL

The applicant proposes to develop the vacant site with a 3-story, single-family residence and two parking spaces. The residence would have frontage on a 30-foot alley which connects to the street system, D and E Streets, via an alley that is 16-feet wide.

V. ZONING REQUIREMENTS

The applicant has requested, per § 3103.2, a use variance from § 2507.2. A single family dwelling is allowed on an alley lot as a matter-of-right if it meets the requirements of § 2507.1 which states:

- § 2507.1 Except for use as a one-family dwelling, a structure shall not be erected, constructed, converted, altered, remodeled, restored, or repaired for human habitation on an alley lot.*
- § 2507.2 A one-family dwelling shall not be erected or constructed on an alley lot unless the alley lot abuts an alley thirty feet (30 ft.) or more in width and has from the alley access to a street through an alley or alleys not less than thirty feet (30 ft.) in width.*

The prohibitions above apply not only to lots that abut alleys less than 30-feet wide, but also to alley lots that abut alleys that are at least 30 feet wide, but that connect to a public street only via an alley that is not less than 30 feet wide. The submitted proposal does not meet this requirement and has therefore requested a use variance from the regulation.

VI. OP ANALYSIS

The requested variance relief must satisfy the criteria for a use variance. An analysis of the proposal against the relevant variance criteria is provided below:

- 1. Is the property unique due to:**
 - a. Exceptional narrowness, shallowness, or shape at the time of original zoning regulation adoption,**
 - b. Exceptional topographical conditions or**
 - c. Other extraordinary or exceptional situation.**

The applicant states that the property has several unique conditions:

- *At 2,448 square feet, the lot is much larger than a majority of the surrounding lots occupied by single family dwellings. The size of the lot allows for a larger structure but such a structure is prohibitive to be used as an artist studio or storage and there is little market to artist studio. The applicant has also provided cost comparisons for the construction of a single family house versus an artist studio showing that the construction of an artist studio is less profitable than a single family house.*

OP agrees that the size of the alley lot is uniquely large compared to the other alley lots in the square. The cost comparison showing that the single family dwelling will yield a greater profit to the applicant than an artist studio is not an exceptional situation that makes the property unique. Additionally, the cost comparison is limited to only between the desired single-family house and an artist studio and not with any other use permitted on alley lots. The applicant has not demonstrated that the only feasible use of the property is a single family dwelling.

- *The alley is not located near the owner's property which makes it difficult for the owners to utilize it in conjunction with their own property.*

OP does not agree that this condition is unique as it is not unusual for the owner of a property fronting on a street not to have ownership of a lot which fronts on an alley lot. The applicant did not provide any information to support their assertion.

- *As an alley structure, a residence is an allowed use, except for the fact that the 30 feet wide alley does not connect to a main roadway.*

OP disagrees. It is not unusual for an alley structure to be connected to the street via an alley less than 30-feet wide. It is also not unusual for an alley system to be significantly wider at the interior of a block than it is at the segments connecting to streets. Most importantly, OP does not accept that the zoning regulations themselves constitute the unique feature, as they apply to all lots in the District.

2. Does the uniqueness, in combination with the zoning regulations, result in exceptional and undue hardship upon the owner?

The applicant proposes the following as financial undue hardships that result from the identified unique conditions.

- *A large artist studio exist several blocks away in Kings court (between 14th and 15th Street and north of C Street, SE. leaving little room in the market for additional studio space.*

The applicant did not provide any information to substantiate that there is not a market for an artist studio or other matter-of-right uses along the alley. The applicant is attempting to demonstrate that the strict application of the Zoning Regulations would make difficult the property's use for any non-residential purpose that is permitted in an alley lot structure in the R-4 zone as either a matter of right, or as a special exception. However, the applicant has not demonstrated that the use of the property for other than residential use is either warranted or necessary to avoid the imposition of an undue hardship. Nor has the applicant established a proportional relationship between the undue hardship and the relief being requested.

3. Would granting the variance result in a substantial detriment to the public good or will it substantially impair the intent, purpose, and integrity of the zone plan?

OP agrees that the single family dwelling would not likely have a negative impact on the light and air to adjacent properties and would not impact pedestrian or vehicular movements within the alleys or on adjacent streets. However, there seems to be the possibility that the proposed single-family house could be impacted by traffic to and from the university and adjacent Safeway supermarket. The applicant seems to imply that the shoe repair and the basketball court at the university are in close proximity to the property and are accessed from the alley. If that is the case, then traffic to and from the facilities as well as the noise from the basketball court could negatively impact the proposed dwelling. Additionally, noise from the supermarket's loading area which is directly across from the subject property would likely have a negative impact on the proposed single family dwelling. OP agrees with the applicant that the property would be served adequately by emergency vehicles and trash trucks

Although the property formerly housed residential units, it is clear from §§ 2507.1 and 2507.2 that residential units were not to be replaced unless under specific conditions. The Zoning Regulations have set a high standard for alley lot dwellings and is particularly the case for a dwelling on an alley lot with connections to the street only from alleys that are less than 30-feet wide. The applicant has not demonstrated that the proposal meets this high standard and is therefore inconsistent with the zone plan.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

A summary of the request was sent to the DC Fire and Emergency Services (FEMS) who has informed OP that the 16-foot wide access alley and the 30-foot alleys around the property would likely provide adequate access for fire and emergency vehicles sufficient to serve the dwelling. FEMS would not likely object to the application as long as:

- The building were properly sprinklered; and
- The building's address and location are clearly visible to emergency vehicle drivers from a public street;

VII. COMMUNITY COMMENTS

The application and proposal was reviewed by the Planning and Zoning Committees of ANC-6B on July 5, 2011 and recommended approval. The full ANC-6B is scheduled to review the application on July 12, 2011.

VIII. CONCLUSION AND RECOMMENDATION

OP is sympathetic with the desire to put the property to productive use. However, the applicant has not demonstrated undue hardship or that the property could not be used or marketed for a use which is permitted by the Zoning Regulations. While the proposal may not have a significant negative impact on the adjacent neighbors, the applicant has not demonstrated that the degree of relief requested would be proportional to the unique circumstances and the hardship the applicant would suffer without relief. Finally, the proposal is clearly and directly contradictory to the current wording and intent of the Zoning Regulations. As such, OP cannot, at this time, recommend approval of the requested use variance for a single family dwelling.